

Subscriber Charges Not Subject To The Health Care Center Tax

PURPOSE: The purpose of this Policy Statement is to provide information about certain subscriber charges that are not subject to the Connecticut health care center tax imposed under Conn. Gen. Stat. §12-202a due to preemption by federal law.

EFFECTIVE DATE: Effective as noted below.

STATUTORY AUTHORITY: Conn. Gen. Stat. §12-202a.

BACKGROUND: Conn. Gen. Stat. §12-202a imposes a tax on the total net direct subscriber charges received by a Connecticut health care center during the calendar year from new or renewal contracts or policies.

FEDERAL EMPLOYEES HEALTH BENEFITS ACT (FEHBA) PROGRAM: In the Omnibus Reconciliation Act of 1990, Pub. L. No. 101-508, §7002(c), 104 Stat. 1388, 1388-330, Congress preempted state taxes “imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved health benefits plan [which provides, pays for, or reimburses the cost of health services for qualified enrollees] with respect to any payment made from the [Employees Health Benefits] Fund.” (Qualified enrollees are United States Government employees, retirees, certain former employees and eligible members of their families.) The provision preempting state taxes with respect to any payment made from the Employees Health Benefits Fund is codified at 5 U.S.C §8909(f) and applies with respect to contract years beginning on or after January 1, 1991.

Congress used the phrase “any payment made from the Fund” rather than “premiums” in 5 U.S.C. §8909(f)(1), because FEHBA carriers provide health benefits “in consideration of premiums or other periodic charges” (5 U.S.C. §8901(7)) and do not provide health benefits to enrollees exclusively through the mechanism of insurance.

The premiums or other periodic charges are paid from moneys deposited into the Employees Health Benefits Fund established in the Treasury of the United States. Amounts withheld or collected from enrollees and sums contributed from appropriations are deposited into the Employees Health Benefits Fund which is administered by the United States Office of Personnel Management. 5 U.S.C. §8909(a).

EFFECT ON HEALTH CARE CENTERS: If a Connecticut health care center is a carrier or underwriting or plan administration subcontractor of a health benefits plan approved by the United States Office of Personnel Management pursuant to 5 U.S.C. §8902, and receives subscriber charges under such plan for providing, paying for, or reimbursing the cost of health services for qualified enrollees, the net direct subscriber charges received by the health care center under such plan are not subject to Connecticut health care center tax under Conn. Gen. Stat. §12-202a to the extent payment of those charges is made from the Employees Health Benefits Fund.

EFFECT ON OTHER DOCUMENTS: None affected.

EFFECT OF THIS DOCUMENT: A Policy Statement (PS) is a document that explains in depth a current Department policy or practice affecting the liability of taxpayers.

FOR FURTHER INFORMATION: Please call the Department of Revenue Services during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free within Connecticut), or
- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

FORMS AND PUBLICATIONS: Forms and publications are available all day, seven days a week:

- **Internet:** preview and download forms and publications from the DRS Web site: **www.drs.state.ct.us**
 - **DRS TAX-FAX:** call **860-297-5698** from the handset attached to your fax machine and select from the menu
 - **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (toll-free within Connecticut) and select **Option 2** from a touch-tone phone
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